



Pierce County

Office of the Assessor-Treasurer

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Assessor-Treasurer

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To the Elected Pierce County Council Chairman and Council Members,

I am writing this document to bring to your attention needed changes to the Pierce County Code. These needed changes are required in order to prevent the flagrant abuse of Pierce County Administrative Guidelines, which I hereby alleged, are being wrongfully used by a few Assessor-Treasurer's office unionized employees to file frivolous Pierce County EEO and Whistleblower complaints containing allegations devoid of merit that were already set forth in a pending Unfair Labor Practice, complaint filed by the very same few unionized employees.

I want to bring to the Council's attention a Union email dated 9-5-2009 (**a copy of said email is attached hereto**) where therein, that email states: "...At the meeting Mary Ann strongly encouraged members who had complaints regarding their treatment by Mr. Washam to file complaints with HR. She indicated that it was the sheer number of these complaints that would have the most effect in prompting HR to action." (emphasis added).

That Union email also stated "... EEOC complaints should not be filled out on County time, copied on County equipment, etc. However, once they are filed the interview process will take place on County time. We should also be filing these complaints with the EEOC office in Seattle. That will actually give us even more bang for our buck." (emphasis added).

Attached to said Union email was a blank Pierce County Whistleblower complaint form and a blank Pierce County EEO complaint form was posted on the Union bulletin board in the Assessor-Treasurer's office. (**Pictures of Union bulletin board with EEO complaint form attached hereto**)

Pierce County Code 3.14.040 (A)(2) requires a prima facie showing in filed Whistleblower and EEO complaints before they are allowed to proceed to the investigation stage. In this case, the Human Resources Director Betsy Sawyers, arbitrarily and wrongfully caused taxpayers dollars to be wasted by allowing the Union employee's EEO and Whistleblower complaints that lacked a prima facie showing to be investigated by outside investigators. As an example the EEO complaint filed by Sally Barnes' was clearly devoid of any prima facie showing of age or gender discrimination that is required by Pierce County Code. It also must be noted that Ms. Barnes said EEO complaint was faxed to Pierce County Human Resources Department on 3-11-2009,

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right after I had disclosed to the Pierce County Council that the Assessor-Treasurer's office taxpayer's assessments records allegedly had hundreds of thousands of false entries made during the years 2001 through 2008. The said outside investigators costs are ten of thousands of dollars, which is a non-budgeted amount that has been arbitrarily deducted from the Assessor-Treasurer's office budget by the Pierce County Executive via the Budget and Finance Office. This was done without the approval or authorization of the elected Pierce County Assessor-Treasurer.

The arbitrary removal of tens of thousands of dollars from the Assessor-Treasurer's office budget funds was done by the Pierce County Executive at a time when the Assessor-Treasurer's office budget had previously been cut by \$609,000.00. That budget cut was followed with another 1.28% budget cut (\$125,000.00). In addition to those budget cuts the Pierce County Council has requested a plan showing how the Assessor-Treasurer's office would make an additional 2% budget cut (\$196,004.00) on top of those already enacted.

The present Assessor-Treasurer not only has to administer the above budget cuts, he has to do so in an office where the original 2010 budget did not reflect or take into consideration the correcting of the alleged 368,642 falsified entries into the property taxpayers assessment records in the Assessor-Treasurer's office that took place during the years 2001 through 2008.

It is an affront to Justice when the Pierce County Human Resources Director will spend tens of thousands of taxpayer's dollars in investigating pointless frivolous EEO and Whistleblower complaints, particularly in light of the fact that the Pierce County Prosecuting Attorney has refused to instigate an investigation into the alleged 368,642 falsified entries into the property taxpayers assessment records in the Assessor-Treasurer's office that took place during the years 2001 through 2008.

Those said alleged falsifications have corrupted the present Assessor-Treasurer's office official taxpayer's assessment records for 2010 and several years to come. Those said alleged 368,642 falsifications have created a significant amount of additional work for the present 2010 Assessor-Treasurer's appraisal staff. That additional work is expected to continue for the next several years, while the effect of those said alleged 368,242 falsifications of taxpayer's property assessment records in the Pierce County Assessor - Treasurer's office are in the process of being corrected with each physical inspection done.

It is a fact, that the citizens/voters of Pierce County elected/hired Dale Washam to manage the Pierce County Assessor-Treasurer's office. However, the Pierce County Executive, via the Pierce County Budget & Finance and Human Resource Departments, has been interfering into the management of the staff of the Assessor-Treasurer's office. **See the attached email dated 6-11-2009** from Aaron BeMiller, where therein Mr. BeMiller states: "...The Budget & Finance and Human Resources Departments, acting under the authority of the County Executive, are holding this request." Please read the said email. Said email is just one example of the numerous interferences into the managing of the Assessor-Treasurer's office staff by the County Executive in violation of the Pierce County Charter, Article 3, Section 3.10, which states: "...the Executive shall not have administrative power over any other elected official or their department regarding staff supervision, staff assignments or normal daily operations, except as provided in the

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## Charter...”.

Elected officials, in these difficult budgetary times, should work hard to spend less taxpayer's dollars and become more efficient, which is precisely what I have done in the Assessor-Treasurer's office this past year. However, as the elected Pierce County Assessor-Treasurer, I feel that I have been impeded from making timely needed changes to the Assessor-Treasurer's office that would have saved more taxpayer dollars if I had not had to deal with the unwanted wrongful interference into the management of my elected office by the Pierce County Executive for the last year. The Pierce County Human Resources Department has used the Administrative Guidelines policies drafted by the Human Resources Department Director and others, to subvert the intent of Pierce County Code and violate the Pierce County Charter, Article 3, Section 3.10.

One such Administrative Guideline policy is **3.40.025** where therein, it states: "... No disciplinary action of a Career Service employee, beyond the level of verbal reprimand (oral warning), shall be administered without the approval of the Human Resources Director." (emphasis added). That is a ridiculous policy and allows the Human Resources Director to override the decisions of the Assessor-Treasurer and his office management. Said Administrative Guidelines for the Career Service Policy **3.40.025**, which is not a County Code, directly undermines the ability of the Assessor-Treasurer's office management staff to correct and prevent improper practices of Assessor-Treasurer's office staff and is a direct violation of the Pierce County Charter, Article 3, Section 3.10. The practical effect of Administrative Guidelines Policy 3.40.025, is that it impedes the Assessor-Treasurer's management ability to directly and timely correct staff wrongdoing and gives the Human Resources Director full administrative power over the Assessor-Treasurer's staff supervision, staff assignments regarding normal daily operations and therefore, is in direct violation of Pierce County Charter, Article 3, Section 3.10.

After reading Pierce County Code Chapter 3.14, "Whistleblower Protection", it became clear to me that filing a County Whistleblower complaint against an elected official pursuant to said Chapter 3.14 was pointless because the County Human Resources Director has no authority to sanction an elected official for any wrongdoing. Knowing that said Chapter 3.14 grants no authority to sanction an elected official for any wrongdoings the Human Resource Director Betsy Sawyers, has allowed purported Whistleblower complaints against the Assessor-Treasurer to be investigated by outside investigators which has needlessly cost the taxpayers tens of thousands of dollars. Because of my above findings regarding sanctions against an elected official pursuant to the Pierce County Code Chapter 3.14, I then in an effort to verify my said findings, requested a written legal opinion from Douglas Vanscoy, Chief Civil Deputy Prosecuting Attorney, in regards thereto, Mr. Vanscoy's opinion is as follows:

In a written opinion, **(a copy attached hereto)** dated 1-8-2010 Mr. Vanscoy states: "[You have requested a legal opinion concerning Whistleblower procedures and the Director of Human Resources. Responses are set out below under the language of your questions:](#)

[Question No. 1: "\[W\]hether Betsy Sawyers, Director of the Pierce County Human Resources Department, has legal jurisdiction over a Pierce County elected official in a purported Pierce County employee Whistleblower complaint, against a Pierce County elected official?"](#)

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Answer: Pierce County Code Chapter 3.14 “Whistleblower Protection” by its terms applies to “any action or proposed action by a County officer or employee. . . .” PCC 3.14.0 10 (A) (emphasis added). The code does not exempt elected County officers. PCC 3.14.020 requires that the entities designated to receive “Whistleblower” complaints forward such complaints to the Human Resources Director for “evaluation and action as appropriate.” When an employee complaint is filed, PCC 3.14.040 (A)(2) provides as follows:

The Human Resources Director or County Executive, as the case may be [ where a complaint is filed against the HR Director, PCC 3.14.040(A)(1)], shall take prompt action to determine if a prima facie complaint has been filed and, if so, to investigate or to cause an investigation into the complaint to be initiated by referring the complaint to the appropriate authority. (Emphasis added.)

Thus, the code clearly vests investigative authority with the Human Resources Director. Accordingly, under the Whistleblower Protection provisions the Human Resources Director is legally authorized and obliged to receive complaints against elected county officers and to investigate or cause an investigation into such complaints.

Question No. 2: “[D]oes Betsy Sawyers have any lawful authority of law to sanction a Pierce County elected official in regards to a Whistleblower complaint?”

Answer: The only penalty explicitly set out in the chapter concerns Whistleblower retaliation; PCC 3.14.030(G) states, “Any County officer, or employee who shall engage in retaliatory action is subject to discipline up to and including suspension without pay, demotion, or discharge in addition to any penalties which might be imposed by an administrative law judge pursuant to state law.” If the Director finds a Whistleblower violation other than retaliation, an appropriate sanction would be based on the specific improper governmental action found to have been committed, as recommended by the Human Resources Director and determined by the appointing authority. [Because no appointing authority exists for elected officials, the only sanction which exists for elected officials under the chapter is the Director’s finding itself.] (emphasis added).

I believe the Human Resource Director has abused her authority and has been biased and harassing towards the Pierce County Assessor-Treasurer with her wrongful handling of Whistleblower complaints against the Assessor-Treasurer. The County Council needs to take action by the amending or passing of new Pierce County Code to stop such abuse of authority by the Human Resource Director.

After researching for legal authority, pursuant to Pierce County Code, mandating payment for outside investigators arbitrarily hired by the Human Resources director be borne by the department where the complaint arose, and finding no such authority, I sent an email on 3-12-2010, to Douglas Vanscoy, Chief Civil Deputy Prosecuting Attorney, requesting a legal opinion as to if there was such an authority.

Said email read as follows: “This is a request pursuant to RCW 36.27.020 (2) asking you to please give a written legal opinion, as to whether there is a written legal authority, i.e. a written Washington State statute or a written Pierce County Code that requires the Assessor-Treasurer’s

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office to pay out of the Assessor-Treasurer's office budget the cost of independent investigators hired by Pierce County Human Resources Department Director to investigate County EEO complaints and County Whistleblower complaints against the Assessor-Treasurer filed by Assessor-Treasurer employees."

On 3-16-2010, Mr. Vanscoy sent the following opinion in response to my said request on 3-12-2010: "You have asked for an opinion whether the budget of the Assessor-Treasurer's Office is legally obligated to bear the cost of independent investigators hired by the Director of the Pierce County Human Resources Department to investigate County EEO complaints and County Whistleblower complaints filed by Assessor-Treasurer employees against the Assessor-Treasurer. For the reasons stated below, in my opinion such expenses are legally the responsibility of the Assessor-Treasurer's operating budget.

Pierce County Code Chapter 3.16 prohibits employment discrimination upon various bases, including race, religion and sex. PCC 3.16.010(A). Harassment and retaliation are also prohibited. PCC 3.16.030 and PCC 3.16.090. Investigation of EEO complaints is addressed as follows:

### **3.16.080 Investigation and Resolution of Complaints**

Any person who is notified of alleged treatment in violation of this Chapter shall immediately contact the County's EEO/ADA Specialist or the Human Resources Director. An investigation by the EEO/ADA Specialist or other person designated by the Human Resources Director shall be promptly conducted. The County will seek to protect all persons who participate in the investigation from retaliation, false accusations, or future improper treatment and, where indicated, will take reasonably prompt and effective remedial measures.... (Emphasis added.)

Under this language, the Human Resources Director has discretion to have a complaint investigated either by a person on County staff or by an outside, retained investigator. Similarly, the Code makes the Human Resources Director a proper recipient of whistleblower complaints and provides, "The Human Resources Director . . . shall take prompt action to determine if a prima facie complaint has been filed and, if so, to investigate or to cause an investigation into the complaint to be initiated by referring the complaint to the appropriate authority." PCC 3.14.040(A)(2)(emphasis added). The subject complaints involved alleged conduct by a department director and the decision was made to retain a third-party investigator. The Code does not specify who pays for such outside investigations. PCC 3.16.020 does say, "Administration and implementation of these [EEO] policies is the responsibility of the Pierce County Executive or designee," and as just noted PCC Ch. 3.14 assigns whistleblower enforcement to HR, an executive department.

The Pierce County Charter provides as follows:

### **Section 3.10 — Composition and Powers**

The executive branch shall be composed of the Executive and all executive departments established by this Charter or by ordinance, and the members of boards and commissions, except boards which have quasi-judicial powers; however, the Executive shall not have administrative power over any other elected official or their department regarding staff supervision, staff assignments or normal daily operations except as provided in the Charter. The executive branch shall have all executive powers of the County under this Charter. (Emphasis added.)

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The emphasized language, added to the Charter by the voters in 2006, does not have a bearing here because the question of payment for outside investigations does not involve “staff supervision, staff assignments or normal daily operations” of the Assessor- Treasurer’s Office.

Furthermore, the quoted Charter 3.10 language is qualified by the phrase “except as provided in the Charter,” and Charter 3.45 expressly provides as follows;

(3) All executive departments shall be subject to the personnel, budgeting, expenditure and any other policies of general application established by the Executive (Emphasis added.)

Charter 3.50 creates “the executive department of Assessor-Treasurer.” It follows that the Assessor-Treasurer is subject to the budgeting and expenditure policies of general application established by the Executive. One of those is the County’s practice, apparently in place for several years, of charging the expense of outside EEO investigations against the budget of the department where the complaint arose. While it may be true that such expenses are unpredictable and therefore not realistically subject to projection during the budget preparation cycle of individual departments, it is also true that they reflect an operating cost logically attributable to the department where the charge arose, see generally RCW 43.09.210. Furthermore, treating them as such may provide additional incentive for strict compliance with the EEO and whistleblower policies to which the County assigns a high priority.

In conclusion, then, in the absence of any contrary provision in a budget or other ordinance, and consistent with the County’s standing practice in this regard, in my opinion the Assessor-Treasurer’s operating budget is legally responsible to pay the cost of the outside EEO and whistleblower investigations of allegations involving the Assessor-Treasurer.” **(A copy of that said opinion is attached hereto.)**

The above legal opinion does not cite any real legal authority for the purported Pierce County "practice" of payment for outside investigators regarding Pierce County EEO and Whistleblower complaints and there is no such legal authority pursuant to the Pierce County Code.

I respectfully, ask the Pierce County Council to please take action forthwith, to draft County Code with safeguards that would not allow outside investigators being used in pointless and frivolous Pierce County EEO and Whistleblower complaints that are filed by disgruntled employees that harm the elected official’s budgets. The Pierce County Code itself should prevent such abuses.

The Pierce County Council is hereby respectfully requested to take action by amending or by enacting new code in the Pierce County Code whereby, such code would correct and stop the wrongful use of Administrative Guidelines policies, such as 3.40.025, as stated above. Also needing correction is the outrageous wrongful said purported Pierce County “practice” of payment for outside investigators hired by the Human Resources director regarding Pierce County EEO and Whistleblower Complaints to be deducted from the budget of the department they are filed against.

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I hereby, propose to you that mandating the expenses for these said outside investigations be borne by the Human Resources Department budget, would provide the county with the best assurance that proper due diligence and discretion will be exercised.

Dated 4-14-2010

Respectfully,  
IN GOD I TRUST,

*Dale Washam*

Cc:

Pat McCarthy, County Executive  
Kevin Phelps, Deputy County Executive  
Mark Lindquist, Prosecuting Attorney

Attachments:

9-5-2009 Union email

Pictures (2) of Union bulletin board with EEO complaint form

6-11-2009 Aaron BeMiller email

01-08-2010 Douglas Vanscoy letter to Dale Washam - PPC Ch. 3.14

03-12-2010 Dale Washam email to Douglas Vanscoy – Request

03-16-2010 Douglas Vanscoy letter to Dale Washam – Funding outside investigations

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